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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

In re A.R., a Person Coming Under the Juvenile Court
Law.

C085689

THE PEOPLE,

(Super. Ct. Nos. 17FE00003,
JV137254)

Plaintiff and Respondent,

v.

A.R.,

Defendant and Appellant.

Appellant A.R. was aged 14 when the complaint in this matter was filed. After the case was transferred to adult court on March 7, 2017, he pleaded no contest on August 10, 2017, to six felonies, admitting a firearm enhancement as to each, and received a stipulated state prison sentence of 19 years 6 months on September 6, 2017.

Originally, appellant contended his trial counsel was ineffective for failing to request a *Franklin* hearing (*People v. Franklin* (2016) 63 Cal.4th 261) before sentencing, and sought a limited remand with directions to hold such a hearing. However, after the enactment of Senate Bill No. 1391 (2017-2018 Reg. Sess.) (SB 1391), which prohibits the trial of offenders under age 16 in adult court effective January 1, 2019, appellant requested and was granted leave to file supplemental briefing on whether this court should deem his convictions to be juvenile adjudications and remand the matter to the juvenile court for disposition. The Attorney General agrees that we should do so. We agree with the parties and shall adopt that remedy. In light of our disposition, we need not discuss the facts of appellant's offenses.

Under the Public Safety and Rehabilitation Act of 2016 (Proposition 57) (Welf. & Inst. Code, § 707, subds. (a)(1), (b); undesignated statutory references are to the Welfare and Institutions Code), the People could petition to transfer a minor from juvenile court to adult court if, among other things, the minor was charged with any section 707, subdivision (b) offense (as appellant was here) committed when the minor was 14 or 15 years old. (*People v. Superior Court (Lara)* (2018) 4 Cal.5th 299, 303.) But as of January 1, 2019, when SB 1391 goes into effect, the People will no longer be able to file such a petition if the minor was under 16 at the time of the alleged offense.

SB 1391 amends section 707, subdivision (a)(1), to read: "In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, *when he or she was 16 years of age or older*, of any offense listed in subdivision (b) or any other felony criminal statute, the district attorney or other appropriate prosecuting officer may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction." (Sen. Bill No. 1391 (2017-2018 Reg. Sess.) § 1; Stats. 2019, ch. 1012, § 1; italics added.) Because SB 1391 was enacted as nonurgency legislation during the 2018 regular session, it takes effect on January 1, 2019. (Cal. Const., art. IV, § 8; Gov. Code, § 9600, subd. (a); *People v. Camba* (1996) 50 Cal.App.4th 857, 865.)

Under the rationale of *In re Estrada* (1965) 63 Cal.2d 740, we must presume, absent contrary evidence, that the Legislature intends amendments to statutes that reduce the punishment for a crime to apply to defendants in all cases in which the sentence is not yet final on the date the statute takes effect. (*People v. Brown* (2012) 54 Cal.4th 314, 323.) In *Lara*, our Supreme Court held that this rationale applied to Proposition 57. (*Id.*, *supra*, 4 Cal.5th at pp. 303, 308.) By the same logic, appellant is retroactively entitled to get the benefit of SB 1391.

DISPOSITION

Appellant's sentence is vacated. We order his convictions to be deemed juvenile adjudications and remand the matter to juvenile court for disposition.

HULL, Acting P. J.

We concur:

MAURO, J.

RENNER, J.